

1                   **CERTAIN EMPLOYEE'S FORFEIT OF RETIREMENT FOR**  
2                   **EMPLOYMENT RELATED OFFENSES**

3                                   2015 GENERAL SESSION

4                                   STATE OF UTAH

5                                   **Chief Sponsor: Daniel McCay**

6                                   Senate Sponsor: Todd Weiler

---

7  
8 **LONG TITLE**

9 **General Description:**

10           This bill modifies the Utah State Retirement and Insurance Benefit Act by amending  
11 provisions for receiving a retirement allowance.

12 **Highlighted Provisions:**

13           This bill:

- 14           ▶ defines terms;
- 15           ▶ provides that an elected official and certain other state employees who are members  
16 of a Utah state retirement system or plan are subject to forfeiture of retirement  
17 benefits after being convicted of certain employment related offenses;
- 18           ▶ provides for notifications to the Utah State Retirement Office;
- 19           ▶ provides for certain determinations by a participating employer on whether the  
20 elected official's or employee's conviction is for an employment related offense;
- 21           ▶ provides an appeals process;
- 22           ▶ provides for certain rulemaking; and
- 23           ▶ provides a severability clause.

24 **Money Appropriated in this Bill:**

25           None

26 **Other Special Clauses:**

27           None



28 **Utah Code Sections Affected:**

29 ENACTS:

30 **49-11-1201**, Utah Code Annotated 1953



32 *Be it enacted by the Legislature of the state of Utah:*

33 Section 1. Section **49-11-1201** is enacted to read:

34 **Part 12. Forfeit of Retirement Benefits**

35 **49-11-1201. Loss of retirement benefits for certain officials for employment**  
36 **related offense convictions -- Notifications -- Investigations -- Appeals.**

37 (1) As used in this section:

38 (a) "Convicted" means a conviction by plea or by verdict, including a plea of guilty or a  
39 plea of no contest that is held in abeyance under Title 77, Chapter 2a, Pleas in Abeyance,  
40 regardless of whether the charge was, or is, subsequently reduced or dismissed in accordance  
41 with the plea in abeyance agreement.

42 (b) "Employee" means a member of a Utah state retirement system or plan who:

43 (i) is an elected official;

44 (ii) as a result of being in a confidential relationship or position of trust with an elected  
45 official, is schedule AD or AG under Section [67-19-15](#); or

46 (iii) is an appointed executive director as that term is defined in Section [67-22-2](#).

47 (c) "Employment related offense" means dishonesty, fraud, theft, or malfeasance in  
48 office:

49 (i) during the performance of the employee's duties;

50 (ii) within the scope of the employee's employment; or

51 (iii) under color of the employee's authority.

52 (2) (a) Notwithstanding any other provision of this title, an employee, and the  
53 employee's beneficiaries are not entitled to a retirement allowance, retirement related  
54 contribution, accrual of service credit, or other retirement related benefit from a system or plan  
55 under this title in accordance with this section.

56 (b) The forfeiture of retirement related benefits under Subsection (2)(a) does not  
57 include the employee's contribution to a defined contribution plan.

58 (3) An employee is not entitled to benefits described under Subsection (2)(a):

- 59 (a) if the employee is convicted of an employment related offense;  
60 (b) beginning on the day on which the employment related offense occurred; and  
61 (c) until the employee is either:  
62 (i) re-elected to office; or  
63 (ii) (A) terminated from the position for which the employee was found to have  
64 committed an employment related offense; and  
65 (B) rehired or hired as an employee who is eligible to be a member of a Utah state  
66 retirement system or plan.
- 67 (4) The employee's participating employer shall:  
68 (a) immediately notify the office:  
69 (i) if an employee is charged with an offense that is or may be an employment related  
70 offense under this section; and  
71 (ii) if the employee described in Subsection (4)(a)(i) is acquitted of the offense that is  
72 or may be an employment related offense under this section;  
73 (b) if the employee is convicted of an offense that may be an employment related  
74 offense:  
75 (i) conduct an investigation to determine:  
76 (A) whether the conviction is for an employment related offense; and  
77 (B) the date on which the employment related offense was initially committed; and  
78 (ii) after the period of time for an appeal by an employee under Subsection (4)(c).  
79 immediately notify the office of the employer's determination under this Subsection (4)(b).
- 80 (5) An employee may appeal an employer's determination under Subsection (4)(b) in  
81 accordance with Title 63G, Chapter 4, Administrative Procedures Act.
- 82 (6) Upon receiving a notification from a participating employer that the participating  
83 employer has made a determination under Subsection (4)(b) that the conviction was for an  
84 employment related offense, the office shall immediately cancel the retirement allowance  
85 described in Subsection (2)(a) and deny any accrued benefits earned by the employee beginning  
86 on the date of the initial employment related offense determined under Subsection (4)(b).
- 87 (7) This section applies to an employee who is convicted on or after the effective date  
88 of this act, for an employment related offense.
- 89 (8) The board may make rules to implement this section.

90           (9) If any provision of this section, or the application of any provision to any person or  
91 circumstance, is held invalid, the remainder of this section shall be given effect without the  
92 invalid provision or application.

---

---

**Legislative Review Note**  
**as of 2-23-15 11:04 AM**

**Office of Legislative Research and General Counsel**